

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23CR80123-RLR

UNITED STATES OF AMERICA )  
 )  
v. )  
 )  
CODEY ALLEN BATES, )  
 )  
Defendant. )  
 )

## **GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION OF DOWNWARD VARIANCE**

The United States hereby files this response to the Defendant's motion for downward variance (DE 34) and states as follows:

1. The government opposes any downward variance from the guidelines, as they wholly and appropriately create a sentencing range that is appropriate for the defendant's crimes.
2. To that end, the applicable sentencing guidelines, section 2G2.1, have not been amended by congress or the United States Sentencing Commission despite opportunity to do so.
3. The victim's family will speak to the Court and provide context to the defendant's crimes and the defendant at sentencing.
4. The government will produce the video that is the basis of Count 1 of the Indictment for the Court's review.
5. Despite Dr. Brannon's analysis and this crime occurring 5 years ago, the minimum sentence of 15 years is wholly insensitive to the crimes purported in this case: the defendant sexually assaulted his own infant child, a child with significant disabilities, a child who was defenseless to the defendant's deviant sexual proclivities.

The government will present other arguments *or tenus*.

Respectfully submitted,

MARKENZY LAPOINTE  
UNITED STATES ATTORNEY

By: s/Gregory Schiller  
Gregory Schiller  
Assistant United States Attorney  
Florida Bar No. 0648477  
500 S. Australian Ave., Suite 400  
West Palm Beach, FL 33401  
Tel: (561) 209-1045  
Email: gregory.schiller@usdoj.gov

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on January 27, 2024, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

s/Gregory Schiller  
Gregory Schiller  
Assistant United States Attorney